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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 UNITED STATES OF AMERICA,

4 v.

19 Cr. 444 (RMB)
Remote Proceeding

5 JOHN PIERRE DUPONT,

6 Defendant.

7 -----x

8 New York, N.Y.
9 April 14, 2022
9:25 a.m.

10 Before:

11 HON. RICHARD M. BERMAN,

12 U.S. District Judge

13 APPEARANCES

14 DAMIAN WILLIAMS

15 United States Attorney for the
Southern District of New York

16 BY: ALEXANDER ROSSMILLER
Assistant United States Attorney

17 FEDERAL DEFENDERS OF NEW YORK

18 Attorneys for Defendant

19 BY: ZAWADI BAHARANYI
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1 (Case called; The Court and all parties appearing via
2 video conferencing)

3 THE COURT: Good morning, everybody.

4 I guess we will start over, so to speak. We had begun
5 last time and there was supplemental information that I wanted
6 to review and so I think I am up to speed now. Let's just
7 confirm, the defense submission dated 11/24/21 requested a
8 virtual or remote hearing and we are proceeding by video
9 conference today, and that has to do with Mr. DuPont's medical
10 issues. He is in a nursing home and is that still the position
11 of the defense, that we should waive opportunity to have
12 sentence in Court?

13 MS. BAHARANYI: That is correct. Given the pandemic
14 and increase in COVID numbers and his physical status, we ask
15 to proceed remotely today.

16 THE COURT: Mr. DuPont is agreeable to waiving his
17 right to be in court?

18 MS. BAHARANYI: Yes, your Honor.

19 THE DEFENDANT: Yes, I am.

20 THE COURT: Mr. Rossmiller, is that OK with you?

21 MR. ROSSMILLER: Yes, your Honor. No objection from
22 the government. Thank you.

23 THE COURT: And it is true that there are still some
24 restrictions in entering and exiting the court house, although
25 we could and we have been doing actual submissions, we have

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1 also been doing some virtual proceedings still.

2 During the last proceeding, which was March 22, 2022,
3 it was brought to my attention that there was a new submission
4 from the defense dated March 17, 2022 which I had not seen. I
5 have had the opportunity to review that submission and feel
6 comfortable going forward today. In sentencing, as I think
7 everybody knows, the United States Sentencing Guidelines are
8 not and have not been mandatory for -- since the mid-2000s,
9 2005, 2006, and 2007, and instead of mandatory guidelines we
10 fashion a sentence by reviewing the factors at 18, United
11 States Code, Section 3553(a), which I have done several times
12 in this proceeding, and these factors include the nature and
13 the circumstances of the offense or crime, the history and
14 characteristics of in this case Mr. DuPont, and the need for
15 the sentence imposed to reflect the seriousness of the offense,
16 to promote respect for the law, to provide a just punishment,
17 to afford adequate deterrence to criminal conduct, to protect
18 the public from further crimes of the defendant, and to provide
19 the defendant with needed educational or vocational training
20 and, in particular in this case, medical care or other
21 correctional treatment in the most effective manner. In doing
22 all of that we look at the kinds of sentences that are
23 available, the kinds of sentence and the sentencing range
24 established under the guidelines even though, as I say, they
25 are no longer mandatory. We look at any policy statements that

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1 may have been issued by the sentencing commission that apply.
2 We seek to avoid unwarranted sentence disparities among
3 similarly situated defendants and, in appropriate cases, to
4 provide for restitution.

5 We always start with a guidelines analysis, again even
6 though the guidelines are not mandatory, and here the offense
7 level is 23, in my opinion, the guideline range is 51 to 63
8 months of incarceration, plus two additional years, that is to
9 say 24 months consecutive, and therefore the guideline range is
10 actually 75 to 87 months of incarceration and the Criminal
11 History Category is II.

12 The second count, the aggravated identity theft
13 carries a two-year consecutive term of incarceration. On July
14 29, 2021, Mr. DuPont pled guilty before me to Counts One and
15 Two of the indictment, that is to say, wire fraud and
16 aggravated identity theft. He pled guilty pursuant to a
17 written plea agreement which was dated June 17, 2021 in which
18 there is a stipulated -- meaning agreed to -- guideline range
19 of 75 to 87 months of incarceration; that's the range, a range
20 of 51 to 63 months on Count One, followed by 24 months
21 consecutive on Count Two.

22 On July 29, 2021, I signed, after the parties had a
23 consent preliminary order of forfeiture money judgment as to
24 Mr. DuPont in which the parties agreed to the forfeiture and
25 money judgment in the amount of \$245,000 in U.S. currency, and

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1 that represented the amount of proceeds traceable to the
2 offense charged in Count One of the indictment that defendant
3 had personally obtained.

4 Mr. DuPont is 83 years old, he is single at this time,
5 and has two adult children and four grandchildren. He
6 maintains a relationship with his son and his son's children
7 and his former wife. He appears to be estranged from his
8 daughter and her family. He has some contact with -- social
9 contact with women with whom he had been romantically involved
10 in the past.

11 Defense counsel advised the Court that he attended
12 St. Anthony's High School in Long Beach, California, and
13 graduated in 1956. He received a bachelors degree in math from
14 Long Beach State College, now called California State
15 University. He got that degree in 1959. He received a masters
16 degree in education from the University of Southern California.
17 He also received an Associate Degree of arts in social and
18 behavioral sciences from San Diego Community College and a
19 bachelors degree in history from the University of California
20 Riverside.

21 According to the presentence investigation report,
22 Mr. DuPont grew up in an in tact family and reported to
23 Probation that he had a great, loving childhood and had in fact
24 been spoiled. That is at paragraph 91 of the presentence
25 report.

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1 He was arrested on March 18, 2019 and has been
2 detained at either the MDC or the MCC or the hospital, or the
3 Windsor Park Nursing Home where he currently resides. This is
4 all since his arrest.

5 According to the presentence report, he has prior
6 disciplinary sanctions from a prior term of imprisonment that
7 included being in an unauthorized area, stealing an institution
8 truck, and leaving the camp and refusing to take a drug test.

9 The nature of Mr. DuPont's offense is described, as
10 follows, principally in the presentence report:

11 Mr. DuPont defrauded thousands of donors who
12 incorrectly believed they were donating to legitimate Political
13 Action Committees -- otherwise known as PACs -- to the
14 campaigns of candidates in various federal and state elections
15 and to certain political causes. Mr. DuPont took more than
16 \$250,000 and/or used the money for his own purposes. The
17 defendant never reported any of the donations he received in
18 filings required by the Federal Election Commission and the
19 donations were not directed to the campaigns or causes
20 purportedly being supported by the PACs in question and related
21 websites created by Mr. DuPont.

22 The plea agreement contains a two-level adjustment for
23 obstruction of justice and the presentence report describes
24 that conduct, as follows:

25 Mr. DuPont willfully obstructed or impeded the

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1 administration of justice when he, after being arrested for the
2 offense, jumped bail and led the government open a months' --
3 that's plural -- months' long multi-state chase which included
4 Mr. DuPont renting a U-Haul and claiming to drop it off in
5 Washington state only to dump it on the side of the road in
6 Texas weeks later. That summary comes from the presentence
7 report at paragraph 63.

8 Mr. DuPont has a prior criminal history that includes
9 the following convictions: Mail fraud, bank fraud, money
10 laundering, false impersonation, fraud claims, unauthorized use
11 of a vehicle, grand theft of firearm, etc. According to the
12 defense, the defendant left a prison in Oregon where he was
13 being harassed and threatened after it was disclosed that he
14 was a cooperator. Mr. DuPont apparently shared a cell with an
15 individual charged with killing his brother and sister-in-law
16 and Mr. DuPont agreed to share information that he had learned
17 about his cell mate with federal prosecutors and testified at
18 trial.

19 The defendant suffers from a number of medical
20 conditions. The presentence report states that as provided by
21 defense counsel, the defendant was diagnosed with unspecified
22 dementia with behavioral disturbance, seborrheic dermatitis,
23 also urinary tract infection, nausea, dry eye syndrome,
24 insomnia, gout, Gastroesophageal Reflux Disease, atopic
25 dermatitis, migraines, vitamin B-12 deficiency, anemia, type II

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1 Diabetes, and stage III chronic renal disease. These diagnoses
2 appear to have been clarified by a copy of the physician order
3 report at Windsor Park Nursing Home provided by counsel.
4 Additionally, counsel provided a list of over 10 medications
5 prescribed for Mr. DuPont.

6 The presentence investigation report relayed
7 additional information about Mr. DuPont's health, as follows.
8 This is a quote: According to a copy of Mr. DuPont's medical
9 declaration dated April 13, 2021 provided by defense counsel
10 from Ms. Emily Kirshner MDMA of the Penn Medicine Lancaster
11 General Health located in Pennsylvania, in November 2019
12 Mr. DuPont was admitted to New York Presbyterian Hospital after
13 he fell and hit his head on a toilet while incarcerated. After
14 10 days it was determined that Mr. DuPont could not return to
15 prison due to his weakness and debility.

16 From November 20, 2019 to March 12, 2020, Mr. DuPont
17 was admitted to Kingsbrook Jewish Medical Center after
18 complaints of unsteady gait, motor weakness, and excessive
19 migraines. He was then transferred to Windsor Park Nursing
20 Home.

21 Ms. Kirshner reported that Mr. DuPont is frail and
22 deconditioned due to a number of medical conditions. Because
23 of his frailty, Mr. DuPont lost over 30 pounds in under a year.
24 Ms. Kirshner noted he has moderate dementia, chronic pain,
25 neuropathy, type II mellitus, may need gallbladder procedures

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1 and other medical issues. It was further reported that because
2 of Mr. DuPont's overall decline in medical health, the
3 defendant is unable to function independently. She indicated
4 that he is at high risk of worsening and will continue to
5 decline.

6 In addition to his medical declaration, the defense
7 counsel provided a copy of Mr. DuPont's life expectancy which
8 was assessed by Scott J. Kush, MD JDMPH of the Life Expectancy
9 Group located in Menlo Park, California. Based on the
10 defendant's medical history, Dr. Kush reported that Dupont has
11 a life expectancy to be approximately four additional years as
12 of the date of the report which was July 13, 2020.

13 Mr. DuPont has a prior employment history that
14 includes owning a tax business and buying and selling mobile
15 home parks. He has been retired since 2002 and receives social
16 security benefits and disability benefits. He reported to
17 probation that he is a master chess player.

18 By submissions dated November 24, 2021 and December
19 16, 2021, the defense requests a sentence of time-served.
20 These submissions were further supplemented by submissions
21 dated January 7, 2022 and March 17, 2022, and the defense
22 argues that a sentence of time-served is warranted due, among
23 other things, to Mr. DuPont's age, ill health, and conditions
24 of confinement including conditions during the pandemic.

25 In the March 12, 2022 submission, defense counsel

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1 provides a lengthy chronology -- chronological history of
2 Mr. DuPont's incarceration of health and the summary starts on
3 October 27, 2019, which is the date of arrest of Mr. DuPont who
4 was arrested in Oklahoma City, Oklahoma, and it goes through
5 January 20 -- I'm skipping the intermediary time periods and
6 what happened during those times -- it goes through January 20,
7 2022 when Mr. DuPont was taken to New York-Presbyterian
8 hospital after complaining of chest pains. He was treated with
9 nitroglycerin at that point in time. He requested to be
10 discharged because he wanted to be treated at Long Island
11 Jewish Medical Center and he was returned to Windsor Park
12 Nursing Home where he remains at this time in the custody of
13 the U.S. Marshals.

14 According to defense counsel, Windsor Park Nursing
15 Home is both a nursing home and a jail for the defendant. He
16 is shackled by his legs at all times, the shackles are attached
17 to his bed. There are two guards who monitor him at all times.
18 He is escorted in any common area inside the nursing home and
19 is not permitted to go to the courtyard or the garden area.

20 Defense counsel acknowledges that defendant has not
21 been at the MCC or MDC -- these are jail facilities located in
22 Manhattan and Brooklyn, respectively -- since November 2019, so
23 that means from the time of his arrest in October 27 of 2019,
24 starting in November 2019, if I understand this correctly, he
25 has not been in MDC or MCC but defense also notes that he has

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1 not been at liberty for the last 28 months now, approximately
2 29 months.

3 In a prior submission, defense counsel noted that
4 Mr. DuPont has several serious physical ailments including
5 Stage III chronic kidney disease, Type II diabetes,
6 debilitating migraines, arthritis, gallstones, kidney stones,
7 and gout. Defense counsel also advised the Court that coronary
8 artery bypass surgery was recommended, however Mr. DuPont and
9 his son declined surgery due to his age and risk of
10 complications.

11 Defense counsel describes his childhood as idyllic.
12 Defense counsel notes that the defendant's adult years have
13 been wrought with instability brought by defendant's own
14 reckless decision making. According to the defense, at one
15 point in his life the defendant earned millions of dollars and
16 had a reputation as a top financier in California, however
17 Mr. DuPont's company defrauded investors, filed bankruptcy, and
18 Dupont was convicted and imprisoned. Defense states that after
19 that, his wife divorced him and he had a strained relationship
20 with his children. He also found it difficult to obtain and/or
21 maintain legitimate employment and he continued committing
22 crimes and serving terms in prison. According to defense
23 counsel, the defendant never recovered from losing everything
24 and causing his family to lose everything. That can further be
25 examined at the defense submission at page 7, the submission

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1 dated March 17, 2022.

2 With regard to the instant offenses, defense counsel
3 states that some of the money went towards fundraising calls
4 and flyers for legitimate candidates but defense acknowledges
5 that much of it did not. According to the government's
6 December 4, 2021 submission, the government found no evidence
7 that any of the money went to legitimate purposes.

8 Defense counsel describes the offense as far less
9 egregious than many wire fraud and aggravated identity theft
10 schemes in that this is not a case where victims were defrauded
11 out of their life savings or retirement. Defense counsel
12 argues that the average donation amount was \$100 and most from
13 one-time donors. I guess the import of that, those remarks
14 from the defense, is that it is not no harm no foul, but if the
15 defrauded amount is less than \$100 and it is from a one-time
16 donor, I guess the implication -- well, we will hear from
17 defense but it seems to suggest that there is some minimization
18 here of the fraud.

19 Defense counsel, in my opinion, fails to note that it
20 is just how massive. How massive the scheme was is not brought
21 up by the defense. It spanned several years, it utilized
22 approximately 15 different websites -- this is the scheme of
23 Mr. DuPont -- it received more than 1,000 donations and the
24 donations totaled \$250,000. I have to say that, personally, I
25 regard that as egregious and serious.

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1 Defense counsel notes that while the defendant was
2 incarcerated for this offense, his son has resumed a
3 relationship with him and has agreed to be an integral part of
4 defendant's re-entry plan. According to the defense, the
5 defendant's son is prepared to welcome his father into his home
6 upon his release and to help him transition to a nursing home
7 or senior living facility near him. There is a letter enclosed
8 as Exhibit A from Mr. DuPont's son, John Rinaldo, to this
9 effect.

10 By submission dated December 16, 2021, the defense
11 states that an updated life expectancy report was prepared for
12 Mr. DuPont that estimates that he is expected to live an
13 additional 2.6 years with a median survival time of two
14 additional years. This updated report was prepared by the same
15 Dr. Kush, and is dated December 9, 2021, and the defense argues
16 that a guideline sentence in this case would result in the
17 likely death in prison of Mr. DuPont and defense counsel argues
18 that Mr. DuPont's life is drastically different now than it was
19 at the time of the offense and far different from his life of
20 30 to 40 years ago when he incurred his prior convictions.

21 I note that in his January 7, 2022 letter, he confirms
22 that if the defendant were sentenced to time-served, the
23 defendant's son John Rinaldo would fly to New York City in
24 order to transport the defendant to his home in California and
25 Mr. Rinaldo would seek to a find long-term care facility for

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1 his father. And in the March 17th submission from the defense,
2 defense counsel points out that defendant's son is 51 years
3 old, Mr. Rinaldo is a registered nurse and an administrator at
4 a Kaiser Permanente Urgent Care Facility in Ventura,
5 California. Mr. Rinaldo has also been employed as a medical
6 counsel. Mr. Rinaldo also apparently received a law degree
7 from Western State University College of Law in 2014.
8 Mr. Rinaldo advised defense counsel that his father could live
9 with him until he has secured a placement in a facility for his
10 father. According to Mr. Rinaldo, the defendant would have to
11 enroll in Medi-Cal, and once his insurance is in order,
12 facilities would be able to make a determination about a bed
13 availability for Mr. DuPont. That's found in the defense
14 submission dated March 17, 2022 on page 6.

15 By submission dated December 4, 2021, the government
16 requests a sentence that is within the stipulated guideline
17 range of 75 to 87 months. The government contends that
18 defendant's underlying conduct in this case was calculated,
19 sophisticated, and predatory, and that his conduct following
20 his arrest, which we haven't gotten to yet, was significantly
21 obstructive. Over the course of years -- this is going back to
22 the first count -- from approximately 2015 up until his arrest
23 in 2019, Mr. DuPont defrauded more than 2,000 victims of nearly
24 a quarter of a million dollars. In short, the defendant set up
25 fraudulent Political Action Committees and falsely impersonated

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1 campaigns and candidates to initially solicit and then to steal
2 donations to these caused and campaigns.

3 Now we come to the obstruction which every time I read
4 about it I am fairly astonished but I think I have it pretty
5 clear in my head what happened. So, this is regarding the
6 two-level obstruction of justice enhancement which requires a
7 two-year consecutive sentence.

8 The government describes what happened as follows:
9 After being charged in this case, the defendant was arrested in
10 California on March 18, 2019. He was presented on March 19,
11 2019, and following the presentment, the defendant was released
12 on conditions of bail and was ordered to appear in the Southern
13 District of New York on March 25, 2019 at 10:00 a.m.

14 Mr. DuPont signed an acknowledgment of defendant --
15 that's a form -- in which he agreed to the terms of his bail at
16 the time he was released including that he was aware of the
17 conditions of release, and promising to obey all conditions of
18 release and to appear as directed. Rather than appearing --
19 this is from the government's submission. Rather than
20 appearing as required in the Southern District of New York,
21 Mr. DuPont fled, leading law enforcement officers on a months'
22 long chase and employing sophisticated means to avoid capture.

23 On March 23, 2019, just days after the defendant was
24 released on bail, he apparently rented a U-Haul truck at a
25 location in Arizona which was nearly 90 miles away from his

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1 home. He rented the "moving van truck" with capacity to tow
2 his Mercedes Benz sedan which had been purchased with the
3 proceeds of his fraud, and he entered into a contract with
4 U-Haul for a one-way trip to Tukwila, Washington to arrive
5 there on March 28, 2019, three days after he was scheduled to
6 appear in the Southern District of New York. Tuckwila is
7 approximately 1,300 miles from the defendant's home and is a
8 short drive to the Canadian border. This stated destination,
9 however, was a ruse -- this is from the government's
10 submission -- presumably designed to mislead law enforcement.
11 In fact, the defendant drove to Texas, not to the state of
12 Washington, where the U-Haul truck was found abandoned in late
13 March, 2019.

14 In the months' following the defendant's flight, he
15 was identified following the use of credit and debit cards,
16 surveillance video, license plate readers and other methods as
17 having traveled at least in California, Arizona, New Mexico,
18 Texas, and Oklahoma, and on October 27, 2019, after more than
19 seven months of eluding law enforcement, the defendant was
20 driving a Honda CRV in Oklahoma and was pulled over for failing
21 to stop at a stop sign. In that traffic stop the defendant
22 claimed falsely that his name was John Reynolds. Subsequently,
23 in response to being asked his name during booking, the
24 defendant stated, again falsely, that his name was Michael
25 Reynolds.

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1 So, one thing I am curious, and would like to hear
2 from the defense, if you could, and that is in this -- first of
3 all, if this scenario that I have described of, with the U-Haul
4 and presumably going to Washington after the date that he is
5 due in New York and winding up in Oklahoma, if any of that, you
6 know, wild goose chase I think is a fair way to describe the
7 situation, if any of that or most of it or all of it is
8 reconcilable with this enormous list of his medical
9 disabilities, or did all of those medical disabilities first
10 appear upon his ultimate arrest for the traffic violation
11 seems -- I'm not suggesting he doesn't have those medical
12 conditions, but it seems from this, again, wild goose chase, to
13 be a person of, it would appear, great physical stamina and --
14 but, anyway, so that is something, maybe I'm
15 misinterpreting what happened. I would like to hear defense
16 counsel's point of view.

17 MS. BAHARANYI: Your Honor, would you like me to
18 respond later?

19 THE COURT: Yes, sure.

20 The government acknowledges -- and I do too, by the
21 way -- that Mr. DuPont's age and health circumstances are
22 definitely meaningful, indeed are mitigating factors going
23 toward a sentence, but the government also argues that they are
24 nevertheless far outweighed by the aggravating considerations
25 of both the offense here and the defendant's very significant

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1 criminal history. That's a quote from the government's
2 submission.

3 And the government also argues that even at an
4 advanced age Mr. DuPont has -- this is a quote too -- not
5 learned his lesson from four prior years-long prison sentence
6 and he remained fully, able, and willing to defraud thousands
7 of victims even as an 80-year-old man. The defendant's crime
8 here did not require youth, strength, agility, or other
9 physical ability. It strikes me that his -- the escapade with
10 the U-Haul did require some of those characteristics. All he
11 needed was a computer and access to the Internet. And even
12 after committing the fraudulent scheme and identity theft, the
13 defendant committed the additional crime, I would suggest,
14 physically tasking crime, of jumping bail.

15 You will recall at my request during the conference on
16 January 10, 2020, the government submitted additional
17 information and in the letter dated January 28, 2022, as to the
18 bail jumping offense committed by Mr. DuPont, the government
19 states that Mr. DuPont was charged with, by complaint in this
20 District, with committing wire fraud and aggravated identity
21 theft on March -- this is when he was charged -- on March 13,
22 2019, and was arrested in or around his home in California on
23 March 18, 2019. He was presented on the complaint the
24 following day, March 19, 2019, in the neighboring District of
25 Arizona where he was released subject to certain conditions set

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1 by the magistrate judge. The relevant order required the
2 defendant to next appear in the United States Court House at
3 500 Pearl Street -- in which I am currently located -- New
4 York, New York, on March 25, 2019 at 10:00 a.m. or as directed
5 by counsel. And it also set forth that defendant was being
6 released on unsecured bond in the amount of \$100,000. That's
7 found in the government's letter dated January 28, 2022.

8 And then I won't rehash it, the government -- if I
9 bring it up and when the government speaks there is a further
10 description, once again, of this bail jumping thing episode --
11 escapade -- wild goose chase, whatever you would like to call
12 it:

13 So, I have also reviewed the presentence investigation
14 report in this case, it was prepared on September 21, 2021,
15 together with an addendum dated October 14, 2021, and the
16 sentencing recommendation approved on October 14, 2021, and I
17 do have the correspondence from the defense dated November --
18 no, dated -- yes -- dated November 24, 2021; December 16, 2021;
19 January 7, 2022; and March 17, 2022; and correspondingly dated
20 from the government December 4, 2021 and January 28, 2022, from
21 Mr. Rossmiller.

22 So I would ask at this time defense counsel and
23 defendant whether they had the opportunity to read and discuss
24 the presentence investigation report, the addendum, and
25 sentencing recommendation.

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1 MS. BAHARANYI: Yes, your Honor.

2 THE COURT: Mr. DuPont, you went over that presentence
3 investigation report -- do we have Mr. DuPont?

4 MS. BAHARANYI: Can you see him, your Honor? He is
5 seated next to me.

6 THE COURT: I cannot.

7 MS. BAHARANYI: Oh.

8 THE COURT: I can see his left shoulder but -- yes.
9 There he is.

10 Mr. DuPont, have you been over that presentence
11 investigation report with your counsel?

12 THE DEFENDANT: Yes. My counsel reviewed it with me.

13 THE COURT: OK. Did you in fact read it?

14 THE DEFENDANT: No.

15 THE COURT: You did or did not? It would be unusual,
16 perhaps, if you did not read it.

17 THE DEFENDANT: Yes. I went over it and read it.

18 THE COURT: OK. And do either of you, starting with
19 defense counsel, have any objections to the content of that
20 report?

21 MS. BAHARANYI: Your Honor, none beyond what we have
22 already provided to probation.

23 THE COURT: And how about any objections from
24 Mr. DuPont?

25 THE DEFENDANT: No. No.

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1 THE COURT: Hearing no additional objections, I intend
2 to return that report to the probation department, that is our
3 practice, and I am happy at this time to hear from defense
4 counsel and from Mr. DuPont and from the government. And if
5 you have the opportunity or the occasion, if you could respond
6 to at least that one question that I raised about the
7 obstruction and whether that implicated, in any way, any
8 physical disabilities that Mr. DuPont has.

9 MS. BAHARANYI: Yes, your Honor. I am moving the
10 computer close to ensure that the Court can hear me.
11 Mr. DuPont remains seated beside me.

12 THE COURT: It is helpful to see Mr. DuPont in the
13 proceeding.

14 MS. BAHARANYI: Sure. As long as you are able to hear
15 me. I didn't want to --

16 THE COURT: Yes.

17 MS. BAHARANYI: Right now I am away from the laptop.

18 THE COURT: I can hear you but I still can't see
19 Mr. DuPont.

20 MS. BAHARANYI: Your Honor, to start with the question
21 that you posed, essentially what happened between October 27,
22 2019 and what Mr. DuPont now, over the past two years, what
23 Mr. DuPont experienced between his arrest and his
24 incarceration, the early days of his incarceration at the MCC
25 of New York was a fall that led to a series of other serious

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1 health events. The fall in November 2019 your Honor, is one in
2 which he was taken to the hospital for a concussion and
3 following that experienced weakness, frailty, and was submitted
4 to Kingsbrook Hospital for a number of months. But that's not
5 the only serious physical event that he experienced after his
6 arrest.

7 I think what the Court has seen in our submissions and
8 what I want to highlight are the cardiac issues that have now
9 arisen since October 2021. That is not something that he was
10 experiencing prior to his arrest in March, April, May 2019. He
11 did not have cardiac arrest, he did not have a failing heart.
12 Now, perhaps there were underlying issues there but he had
13 never been hospitalized from his heart failing until October
14 2021. At that time, your Honor, they performed -- they kept
15 him in the hospital for three weeks first. They performed
16 surgery or attempted to perform surgery to stent his blocked
17 arteries. One of those blocked arteries is nicknamed the widow
18 maker. The widow maker, essentially, is a particular artery
19 that is notorious for causing death for whom it is blocked.
20 They were able to stent one of his arteries as reflected in our
21 paperwork. They were not able to stent the widow maker.

22 So he is still in this position, your Honor, where
23 every day is essentially a precarious day for him. His heart
24 is far weaker than it ever was. He was supposed to have been
25 taken for a follow-up appointment with the cardiovascular team

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1 at Long Island Jewish Medical Center but either because of
2 issues with the nursing home or marshal transport, that has not
3 happened yet.

4 THE COURT: Is it true or is it -- am I
5 misunderstanding that Mr. DuPont has rejected, and his son,
6 further heart surgery?

7 MS. BAHARANYI: So not that they rejected it. They
8 were proposing a particular type of surgery in October 2021,
9 open heart surgery. That is one type of procedure to address
10 blockage but it is the riskiest type of procedure for someone
11 his age. There are far less evasive procedures to go into the
12 heart that unfortunately Long Island Jewish Medical Center
13 could not do for him so he -- and truly his son who is also on
14 the line, your Honor, and I will note has been on the line for
15 each of our hearings --

16 THE COURT: Oh, I didn't realize. He is certainly
17 welcome to be here.

18 MS. BAHARANYI: Yes. He has been listening in. He
19 was here in March and also in January, but he and his son made
20 the decision that they wanted to be able to get this procedure
21 done in a more minimally invasive way that is less risky to
22 Mr. DuPont, his father, when he is home, if permitted. I think
23 there is an interim procedure that is stenting that he is still
24 waiting to take place.

25 Stenting, right?

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1 THE DEFENDANT: When it was blocked.

2 MS. BAHARANYI: Yes, that's what I was explaining, he
3 is explaining that the right was stented but the left
4 descending artery was not, that's the widow maker so that's
5 what he is still awaiting a follow-up procedure on here in New
6 York City so there are two sort of separate procedures that can
7 take place; the interim one, which is what he wants to stent,
8 and a slightly more invasive but not as dangerous procedure
9 going into his heart to actually fix the issue that he is
10 dealing with.

11 THE COURT: Is there not a procedure where someone
12 could have heart surgery while maybe incarcerated that's less
13 invasive than open heart surgery?

14 MS. BAHARANYI: It was not made available as an option
15 from the Long Island Jewish Medical Center which is where they
16 took Mr. DuPont in October so I don't know if it's going to be
17 made available to him at a different, better medical center
18 under the BOP. It is a procedure that is, actually, that is
19 available to him in the community which is one of the reasons
20 why we wanted to be able to return him to his home, to his son,
21 so his son can arrange that at a proper medical treatment
22 facility.

23 THE COURT: So my knowledge, so New York, for example,
24 is one of the heart surgery -- the places, the ultimate heart
25 surgery places in the country if not the world.

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1 If we could have Mr. DuPont in the picture? It is
2 really impossible not to be able to see him.

3 Did he and his son consult with Long Island Jewish or
4 Windsor Park or anybody about having a surgery less invasive
5 while he's in fact incarcerated?

6 MS. BAHARANYI: They had the stent placed which is an
7 interim procedure, but my understanding is that Long Island
8 Jewish Medical Center, which is the facility he was given
9 access to while in custody, was not only able to do open heart
10 surgery to fix the issue -- hold on one moment?

11 (Defendant and counsel conferring)

12 THE COURT: If you are talking to me, I can't hear
13 you.

14 MS. BAHARANYI: One moment, your Honor?

15 (Defendant and counsel conferring)

16 THE DEPUTY CLERK: Judge, I believe counsel is
17 conferring with her client.

18 THE COURT: Yes, but it is on mute -- intentionally.
19 I see. I see.

20 MS. BAHARANYI: I had muted myself to have a private
21 conversation.

22 THE COURT: I appreciate that and I understand that.
23 Yes.

24 MS. BAHARANYI: If I may have one moment, your Honor?

25 THE COURT: OK.

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(Defendant and counsel conferring)

MS. BAHARANYI: Your Honor, thank you for the moment.

Mr. DuPont was explaining that the procedure he underwent at Long Island Jewish Medical Center of the stenting was the less invasive procedure option, it is just, unfortunately, it is not a permanent solution either.

(Defendant and counsel conferring)

MS. BAHARANYI: So a little bit technical, his right descending artery is still stented, his left descending artery -- which is the widow maker -- they could not complete the stent on the left descending artery so he is still in a position where he still has this blockage which could be dangerous for him.

THE DEFENDANT: Excuse me, your Honor. I -- they wanted to do open heart surgery but I consulted with my son and he consulted with the people who work with him and they said it was too dangerous to open me up because if they cracked my chest, I would probably just die from that. They recommended a less intrusive which is to put a stent in. They put a stent -- so they scheduled me for that stent operation, they put a stent in my right artery and that was successful and that can last probably, I don't know, they didn't tell me but they didn't say that it would -- that it was an alternative to open heart. They then went into my left artery but it was so blocked that they -- and I was so weak that they decided that they would

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1 stop the procedure and that they would schedule it when I
2 was -- in several weeks when I was stronger. That procedure
3 was done with a scope, they didn't have to crack open my chest,
4 they did it with a scope, but when they pulled the scope out I
5 started to hemorrhage and at that time I flatlined. So they
6 said they were able to bring me back and then said we will
7 schedule again when that is stronger. I thought it would be
8 done sooner but, unfortunately, it still hasn't been done.

9 I would like to make one other comment. I know what
10 you have read in regards to the flight, OK, seems very
11 mysterious, she doesn't want me to tell you but number one --

12 MS. BAHARANYI: Let me have one moment, your Honor,
13 before we go there, if you don't mind.

14 THE COURT: I don't mind at all.

15 She wants to consult with you.

16 (Defendant and counsel conferring)

17 MS. BAHARANYI: Your Honor, he does want to provide a
18 bit more context between the actions between March and October
19 2019 with the recognition that we do also want to refocus on
20 his health. So we will get back to that, but he has asked to
21 address the Court on that issue.

22 THE COURT: Sure.

23 THE DEFENDANT: Thank you, your Honor. I want to
24 explain what happened after I was placed on the bail in
25 Arizona.

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1 I returned to my home which was 90 miles away. I
2 returned to my home which is a trailer which I rented for \$700
3 a month in the desert of California. I returned to my home and
4 purchased a round trip ticket from Las Vegas, Nevada, to New
5 York, so that I could pursue my defense in this case.

6 I got in my car and attempted to drive there and
7 passed out. When I woke up, I realized I had missed my plane
8 so I decided I would pack up and come to New York. I rented
9 the van in the city that I lived in Arizona which was in
10 Blythe, California, where I lived. I then had friends assist
11 me, I told them exactly what I was doing, I was going to come
12 to New York, and I drove on a direct route. And if you will
13 look at it, you will see you drive through Arizona, you drive
14 through New Mexico, you drive through Texas, and you wind up in
15 Oklahoma. I was on my way, I had another blackout. A lady
16 rescued me, took me in her home, and that's when I realized
17 that I wasn't going to make it and so I just decided that I
18 just would try to stay there. But I wasn't
19 jumping-jumping-jumping-jumping. I don't know where the
20 Washington came from, I was never in Washington, I was never in
21 Oregon, I never drove to Washington. That never happened. I
22 drove directly from my home in Arizona, I was on a direct
23 route, and all of those states that are mentioned which are New
24 Mexico and Arizona, are all direct from my home in Blythe,
25 California, to New York. That was what I was trying to do. I

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1 realize that I failed to do it, I made a bad choice. I was
2 very weak and I didn't know what I was doing and, consequently,
3 I stopped in Oklahoma. But I wasn't jumping around, I was
4 never in Washington, and I was never in the states that would
5 take me there and there is no -- I was in a direct route.

6 THE COURT: What did you do in Oklahoma?

7 THE DEFENDANT: What did I do in Oklahoma?

8 THE COURT: Yeah.

9 THE DEFENDANT: I parked the van, she had some people
10 unload it, and I went to bed.

11 THE COURT: You what?

12 MS. BAHARANYI: He said he went to bed, your Honor.

13 THE COURT: Went to bed.

14 How long did you stay in Oklahoma?

15 THE DEFENDANT: I stayed for several months.

16 MS. BAHARANYI: So what he has explained, your Honor,
17 is he knows he should have returned to court.

18 THE DEFENDANT: I did know it but then I had so many
19 failures, I gave up.

20 MS. BAHARANYI: So --

21 THE DEFENDANT: I thought I was just going to die
22 there.

23 MS. BAHARANYI: And, your Honor, I have actually had
24 the benefit of getting a little bit more information from his
25 son as well who has been listening in to the proceeding.

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1 So the name of -- and this is, again, I'm not a
2 medical doctor. Fortunately, his son is in the medical field.
3 What had been proposed to Mr. DuPont was a form of bypass
4 surgery and that's what Mr. DuPont has explained to you as
5 well, but this -- the type of recovery or the type of procedure
6 they have been able to do that is not as invasive is called an
7 endoscopic coronary artery bypass. It doesn't require as much
8 of a physical entry into the chest is my understanding -- and I
9 also asked Mr. Rinaldo to correct me if I am wrong as he is
10 listening -- and it is much better for someone who is frailer
11 like Mr. DuPont. He has explained often cardiologists don't
12 recommend doing the more invasive type of bypass surgery for
13 individuals like him because of exactly what he explained, that
14 it can lead to adverse outcomes in the middle of the procedure.

15 So to your question of can they do can the BOP arrange
16 or provide access to a hospital that is able to do a less
17 invasive form of procedure, I'm not sure. I know that the BOP
18 has been in charge of this care thus far and that has not yet
19 happened. So all I can say is that much, your Honor.

20 I do want to return to kind of the big picture here
21 and our sort of sentencing argument.

22 THE COURT: Hold on one second.

23 MS. BAHARANYI: Yes. Of course.

24 (pause)

25 MS. BAHARANYI: So your Honor, the big picture here,

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1 what we are asking for in time-served is the opportunity for
2 Mr. DuPont to live out his remaining years with family. He
3 does not have long to live. Dr. Kush has made that clear. His
4 life expectancy at this point is two years and a guideline
5 range is more than double that time, your Honor. Mr. DuPont is
6 a significantly different person than the one he was in October
7 2019 and it's not just us asserting or saying this, it is what
8 is reflected in every single medical record we obtained and
9 have provided to the Court, it is what is reflected in
10 Dr. Kush's report, it is what is reflected in Dr. Kirshner's
11 report.

12 Individuals like Mr. DuPont in their 80s, they're at
13 an older age, when they experience falls, concussions as he
14 did, this type of decline is not uncommon.

15 THE COURT: Is not what?

16 MS. BAHARANYI: Uncommon. Uncommon.

17 So when elderly people fall, it is not uncommon for
18 their health to then decline. Also, now having cardiovascular
19 issues it is not uncommon for someone to develop these worse
20 health outcomes as they age. Mr. DuPont, we are not saying
21 everything started just in October 2019. Absolutely not. He
22 has suffered from kidney issues since he was a young child, was
23 hospitalized for kidney issues since he was a young child. He
24 suffered from diabetes now for 25 years. So it is certainly
25 not the case that, boom, now his health is poor and in all

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1 these various ways but it is now certainly the case that after
2 his arrest he has experienced a particularly sharp decline in
3 his health and that part of it is due to things that we could
4 have -- he could have never foreseen when he was out in the
5 community in October, March, 2019.

6 So, these changes in his health -- and he will speak
7 to how he has used that time to reflect -- but I think these
8 changes in his health are significant to the goals of
9 sentencing as well where we are concerned, this Court is
10 concerned in fashioning a sentence to make sure that it fits
11 the offender.

12 THE COURT: Make sure?

13 MS. BAHARANYI: That it fits the offender.

14 THE COURT: Yes. No, no, no. Of course. I
15 understand. Of course.

16 MS. BAHARANYI: In this case I think a guideline
17 sentence is not proportional given who Mr. DuPont is today. If
18 he had been in a different position, if he was still a slightly
19 healthier version of himself from March 2019, this would be a
20 different request but that is simply not the case. He was
21 never before hospitalized because of heart failure. That is
22 what's happened to him now in the nearly three years that he
23 has been incarcerated in the Southern District.

24 So I don't think it is hyperbole to say that we are
25 trying to avoid a death in prison sentence. That is exactly

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1 what it is based on; the records, based off of what experts who
2 have said who have reviewed his medical record and his state.
3 And, fortunately, we have an alternative. The reason why I
4 pointed out to the Court that his son has been on every call is
5 I think it is important to see the kind of support he will have
6 if he is released. I don't wish prison on anyone -- as the
7 Court is probably not surprised to hear -- but prison has had
8 the kind of positive effect of reconnecting Mr. DuPont with his
9 son, with Mr. Rinaldo. And Mr. Rinaldo is not just a son who
10 loves his father and can just provide generic, vague support.
11 No. He is prepared to provide a very specific kind of support
12 to his father upon release starting at the point of release.
13 We are in communication -- I am in communication with his
14 Windsor Park -- the Windsor Park staff here. If he were to be
15 sentenced to time-served, they would coordinate with him so he
16 can actually come to New York and take his father back with him
17 to California. He would live with his father -- sorry in
18 reverse, his father would live with him and his two sons, ages
19 8 and 9 years old, and his wife who is a dental hygienist so
20 also in the medical field although different type of medical
21 field. He would have his own bedroom and he would remain there
22 only until his son is able to put him into the nursing home.
23 And he has explained to me a number of times -- and I have
24 explained to the Court in our submission -- that it does
25 require him being out so that he can set up the nursing home

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1 placement. We have already provided him with the background
2 information that he needs but what he has to be able --

3 THE COURT: I was a little unclear about that, too,
4 and I don't really know, although I have had elderly parents.
5 One can't get a placement or a bed or a fix on where one is
6 going to go, for example, in assisted living or nursing home,
7 particularly you have to be out of jail in order to identify a
8 placement? I find that strange.

9 MS. BAHARANYI: He has identified potential placements
10 but he needs to be out of jail so that his California insurance
11 can cover any of those placements and they can tell him what
12 the prices will be for them to hold his father.

13 THE COURT: Well, certainly that information is
14 available if one is a resident of California. I mean, you
15 don't have to be in a certain place to be a resident of
16 California and to know what the rate would be in the Windsor
17 Park facility in California, for example, assuming there were
18 one. I have no idea. It just seems to -- it doesn't make
19 sense to me, but yeah.

20 MS. BAHARANYI: They're not --

21 THE COURT: Before you continue, let me just ask one
22 thing or two things.

23 First, I think I may have misspoke. I'm not sure that
24 the obstruction is a consecutive sentence and I will hear from
25 Mr. Rossmiller if that's right or not; but second, how much

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1 time has he already served?

2 MS. BAHARANYI: He has already been in for 29 months.

3 THE COURT: 29 months.

4 MS. BAHARANYI: And he did not plead guilty to
5 obstruction, your Honor; it's an enhancement within the
6 guidelines but it is actually not a separate sentence because
7 he didn't plead guilty to that.

8 THE COURT: His guideline range is 75 to 87 months; is
9 that correct?

10 MS. BAHARANYI: That is correct.

11 THE COURT: That's with the enhancement. Got it. But
12 it is not -- I get it. OK.

13 MS. BAHARANYI: Factoring in the agg ID charge.

14 THE COURT: Yes, I got it.

15 MS. BAHARANYI: We are in the fortunate position that
16 Mr. Rinaldo, his son, is actually most familiar with California
17 nursing homes because of his work, and so he has already begun
18 the process for doing the research and investigation and that's
19 how I now know what is required. I am not an expert in
20 California but fortunately his son very much is. So with his
21 assistance, Mr. DuPont the father is going to be in a position
22 to get placed into a nursing home with his assistance upon his
23 release.

24 Your Honor, what has now occurred as Mr. DuPont
25 explained to me, a nursing home in California will allow him to

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1 be closer to his family so there is a world in which we are
2 trying to ask for him to be placed permanently --

3 THE COURT: No, I get it.

4 MS. BAHARANYI: -- with his son. And his son
5 understands he doesn't have the ability to take on the forever
6 long-term care of his father, but he is there to be interim and
7 he does have the connection and the resources to put him into a
8 nursing home near Ventura. And I think that's significant too,
9 your Honor, because Mr. DuPont, with his cardiovascular issues,
10 with his dementia, with Type II diabetes, with kidney failure,
11 with gout, he will be placed in what we call a federal medical
12 center, FMC. So he wouldn't remain at MDC or go to general
13 population at a random facility, there are exactly seven
14 facilities that are considered federal medical centers. The
15 closest one of those to Ventura, California is in Texas, which
16 is several hours away and far difficult for Mr. Rinaldo, his
17 son, to get to in the event of any emergencies or something if
18 that were to happen to Mr. DuPont. It certainly does not
19 facilitate his ability to be connected with family, to be able
20 to receive visits from his grandsons or sons if he is
21 incarcerated in Fort Worth, Texas, far from his son and
22 grandsons.

23 So I think the limited availability of these types of
24 facilities and the availability of truly both, I believe,
25 exceptional medical care and oversight from his son in

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1 California is another reason that a time-served sentence is
2 appropriate. Of course, the Court is going to be concerned
3 about deterrence, like what message does this send if I give a
4 time-served sentence to someone like Mr. DuPont and someone who
5 is engaged in fraud and we certainly do not intend to minimize
6 the fraud. It certainly was extensive in its reach but I think
7 there are individuals who see that Mr. DuPont was given a
8 29-month sentence with his background, with his health issues,
9 in a case that was non-violent and in a case where the
10 individual loss to folks was around \$100 or less. I think if
11 they see there was still a substantial sentence yet not a
12 guideline sentence, they will be deterred from engaging in this
13 same conduct, especially if they're younger, especially if they
14 don't have the laundry list of health issues that Mr. DuPont
15 has. He is truly in a somewhat unique position in terms of his
16 frailty and his age and how those two interact.

17 THE COURT: I am certainly going to take them into
18 account. That's who he is so I am certainly going to take that
19 into Court.

20 MS. BAHARANYI: Your Honor, I will wrap up because I
21 believe we have covered and exhausted probably the physical
22 health issues and I do think that is the primary reason why a
23 time-served sentence is warranted or appropriate, but I do want
24 to address this concern about what could he do on computers,
25 what could he do if he were given access to the Internet, that

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1 reason raised in the government's submissions prior.

2 This offense was not something that was committed by
3 himself. I think that part has not been fully explained or
4 supplied to the Court before. He was not a lone actor, he had
5 assistance, and he had assistance from someone who is very well
6 versed in computers and technology so he was not by himself in
7 this. Nevertheless this Court, and other Courts in this
8 district, have routinely put into place restrictions on
9 computer access or Internet access for people who commit
10 computer-based crimes, computer-based crimes like accessing
11 child pornography, distributing child pornography. Probation
12 has ways of monitoring that conduct and can certainly monitor
13 that conduct for someone like Mr. DuPont inside of a nursing
14 home and, in our view, far more easily than for a young person
15 convicted of another computer-based offense in the community.
16 So I don't think that that concern for future potential harm
17 requires more time in custody in prison when there are other
18 less obtrusive -- truly, frankly less harmful alternatives
19 available to the Court.

20 THE COURT: Yes. So in point of fact, as we discussed
21 before, so if I understand the situation correctly, Mr. DuPont
22 is and has been -- you call it incarceration and it certainly
23 is, he is not free to leave, but he has been at Windsor Park
24 Nursing Home which is exactly, sounds to me, like the kind of
25 facility that he is intending and needing and planning to go to

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1 except that it is not in California. So this, by the way, is
2 the only case I have ever had, I think, where -- and I was
3 actually at the beginning, you may remember, I was a little bit
4 surprised that he was in a nursing home I guess at the
5 government's expense.

6 But in terms of the care, the treatment, the feeding,
7 the room, the cleaning, he has all of that has had -- just a
8 minute, this is my understanding -- he has all of that as long
9 as he has been in this Windsor Park Nursing Home and he has
10 hardly ever been in a jail. You pointed that out. So, the
11 conditions that have been afforded to him by the government I'm
12 not saying it is a good thing because he can't leave and all of
13 that, I'm not saying it is an ideal place, but it is fairly
14 extraordinary the resources that have been extended to him of
15 both resources in both living accommodation and medical care
16 for that matter.

17 So, it strikes me that the biggest difference would be
18 that he will get to see his grandchildren, you know, often.

19 MS. BAHARANYI: Your Honor, I am glad you raised that
20 because that is still absolutely not the case, that the only
21 difference is he gets to see his grandchildren.

22 THE COURT: I am overstating it but how many clients
23 have you had that, during their incarceration, they have been
24 placed in a nursing home or assisted living or whatever, which
25 is -- maybe I'm being a little too clear about it but which is,

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1 from what I am understanding from what you have told me, that
2 he is looking for an appropriate nursing home and I'm just
3 pointing out -- I'm not saying -- so what I am saying is from
4 what I can see and what I have heard and what I have read, his
5 medical needs have been attended to. It is not like he is
6 parked away in the MDC or the MCC. That would be a whole
7 different story. I think he has hardly been in either of those
8 kinds of facilities and I think it is fair and important to
9 point out that our system, as best it can, has come up with a
10 pretty humane and caring and probably expensive -- I have no
11 ideas -- facility for someone precisely -- someone who is of
12 Mr. DuPont's age and, nevertheless, is a criminal.

13 MS. BAHARANYI: This has not been --

14 THE COURT: You are going to say why I am wrong.
15 Let's hear about that.

16 MS. BAHARANYI: It is something that we have -- I have
17 described in our last submission on page 5, just how the
18 conditions differ. Right? If he were to be placed in a
19 nursing home in California it is not just geography that
20 changes. Every day that Mr. DuPont is in custody and has been
21 in custody while in a hospital, while in a nursing home here he
22 has been shackled to his bed. So what that means is instead of
23 other individuals who are able to ambulate, walk around, get to
24 sort of integrate regular normal exercise into their day to
25 become stronger, to become healthier, he himself has been

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1 shackled by his ankles to another bed frame in another room
2 with other inmates who are also shackled to their beds,
3 sometimes three inmates in one room with four to six guards in
4 that same crowded room. Not only is it a COVID disaster
5 waiting to happen, but it truly shows you that this is not the
6 liberty that other individuals in nursing homes have.

7 When we met with the Court about two years ago with
8 the marshal service joining the phone call, the marshal
9 supervisor explained that they have to keep people shackled,
10 have to keep guards in the room. Even if they're 80 years old
11 like Mr. DuPont, the shackles are necessary for limitations in
12 their movement. They aren't allowed to go into the courtyard
13 for any fresh air, they stay inside at all times shackled to
14 their bed and he is incarcerated, it is not something we have
15 the ability to change because the marshals say that is a
16 security necessity but that has been his life.

17 When he is in the bed, when he is shackled to his bed,
18 your Honor, he has no ability to go change the TV or do the
19 things that a normal person in a nursing home would be able to
20 do. So it truly isn't just a matter of he wants to be closer
21 to his family, he has been incarcerated. He has felt he
22 effects of incarceration and it has had a physical effect on
23 his body as well just contributing to the frailty that
24 Dr. Kirschner explained in her report.

25 One moment, your Honor?

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(Defendant and counsel conferring)

MS. BAHARANYI: Your Honor, I think that another point is -- our meeting time to be coming but another thing we want to make sure the Court is aware of is he is not getting high-quality medical care here to the degree he would receive if he were in a placement identified by his son, monitored by his son, close to his family where there is some expense of accountability not just to Mr. DuPont but also family members who are there, present, and love him. Instead, we had to get an ombudsman involved in his case to ensure that he is getting things like proper meals. There are appointments that should have been made for him from this nursing home to go follow up with his cardiovascular care that should have been made months ago. We have been harassing and talking to the nursing home constantly to try to make that happen. But this is -- I hate to say it, but I think this is the consequence of someone being in custody in this place, right, instead of someone being at liberty and at a nursing home that they and their families have been able to choose that provides a level of quality of care.

THE COURT: Yes. Don't get me wrong. I am not suggesting that I don't realize there is a difference between being in custody and being at liberty. There is no question. I appreciate that and you are pointing out the differences, yes. I certainly not only appreciate it but I understand it.

MS. BAHARANYI: I think there is something critical in

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1 being able to choose a place that is going to be able to meet
2 his needs and that's focused on meeting medical needs. Right?
3 He is in a position where he has a number of them, a laundry
4 list of medical needs, and his son is in a position where he
5 knows the best places possible in California to make sure that
6 he is getting the treatment that he does in fact need. Bureau
7 of Prisons is an agency that is about detention and punishment
8 and holding people. They're not a medical agency, that's not
9 their first priority. They will endeavor to try to provide
10 service to individuals but because it is not their first
11 priority, they fail often. And I don't want to see that sort
12 of failure for Mr. DuPont, who is already in such a precarious
13 physical position, frail position, and old, elderly.

14 So, your Honor, for these reasons, I know this is a
15 tough case, I know this is a difficult case in many ways
16 because it is uncommon. There are facts here I have never
17 encountered. I have never had such an elderly client. I
18 actually haven't had a client in Windsor Park Nursing Home
19 although our office has had others who have been incarcerated
20 there. But I do think that his needs now as an individual do
21 require or do warrant placement at home with his family.

22 THE COURT: I got it.

23 MS. BAHARANYI: Thank you.

24 THE COURT: Mr. DuPont, you will have to move the
25 camera or tilt it. That's better.

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1 THE DEFENDANT: Thank you, your Honor, for allowing me
2 this time to express my deep remorse for the crimes I have
3 committed.

4 As the Court is aware, I have numerous chronic health
5 conditions such as kidney failure, which I have had since I was
6 9 years old; diabetes, which I have had for the last 25 years;
7 but the one that gives me the deep pause for reflection is my
8 heart disease. I believe you are aware I have had three heart
9 attacks in the last six months including one where my heart
10 actually stopped. Many have noted, when faced with your
11 imminent death, your mind really focuses on your past; for me,
12 such as the criminal activities which I have pled guilty.

13 It is hard to express the deep remorse I have for this
14 conduct. I realize that these crimes were based on the sins of
15 greed and pride. I pray every day, off and on, for hours. I
16 pray that God and the Court will accept my sincere remorse.
17 Fortunately, during my prayers, a calmness flooded my person,
18 assuring me God has heard and accepted my humble prayers and
19 shown mercy.

20 My doctors tell me that my left descending cardiac
21 artery is 95 percent blocked. I could die any minute. Here in
22 the nursing home, when I left the hospital, the doctor said you
23 have to return in about 10 days because we want to try to
24 unblock your left artery. I have told the nursing home
25 repeatedly I have got to go back to the hospital and they

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1 ignore my request. It is 90 days when the hospital wanted me
2 back in 10 days.

3 The reason why I want to go back to California is
4 because I know I'm going to die and I want to die with my
5 family around me, I don't want to die alone.

6 Thank you, your Honor. I am hoping you have mercy on
7 me.

8 THE COURT: Mr. Rossmiller?

9 MR. ROSSMILLER: Would you like to hear from the
10 government, your Honor?

11 THE COURT: Yes. If you wish to be heard.

12 MR. ROSSMILLER: Yes, I do. Your Honor, I will be, I
13 think, very brief.

14 First of all -- well, first of all, on a small point,
15 I think Ms. Baharanyi noted in response to the Court's
16 questions but I just want to confirm, the obstructive conduct
17 is taken into account in the guidelines calculation so that's
18 not a separate or consecutive sentence. I expect to ask the
19 Court to dismiss that underlying charge at the conclusion of
20 today's sentencing proceeding so it is relevant conduct but not
21 a separate charge.

22 THE COURT: Yes.

23 MR. ROSSMILLER: Looking to the broader picture, the
24 government does not dispute that Mr. DuPont has serious health
25 issues that is totally appropriate for the Court to consider.

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1 The Court can and should, and I am sure will take that into
2 account in its decision making, and the government has no
3 quarrel with those arguments in terms of Mr. DuPont's current
4 situation. The Court is, I think, understandably asked about
5 the difference between the situation now versus when he was
6 committing the offenses including the bail jumping, but just
7 for the purposes of right now, the government again
8 acknowledges that there are serious health issues and that
9 those are a factor.

10 The government, nevertheless, does believe that a
11 guideline sentence would be appropriate even taking into
12 account those factors. The government is not seeking an above
13 guidelines calculation despite the fact that Mr. DuPont has
14 committed five felony offenses throughout his life over the
15 course of decades. We are not seeking an above guideline
16 sentence despite a lengthy flight from bail so we think the
17 guidelines calculation is appropriate here.

18 I am going to, your Honor, largely rest on our
19 submission, unless the Court has specific questions, other than
20 to say it is concerning for the government, and we submit
21 should be concerning for the Court, that Mr. DuPont remains
22 willing to not tell the truth to the Court about some of these
23 matters. I will note, as we said in our submission, that
24 Mr. DuPont says that some of the donated funds did in fact
25 support the political candidates and campaigns by financing

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1 callbacks on behalf of the candidates. That's false. That is
2 just not true. There is no evidence of that. The government
3 put in its submission four months ago, there has been no
4 evidence in response to that since is the defense argued that
5 he didn't deprive causes and candidates of "the full economic
6 support of the donations he received" or the full benefit of
7 those solicited donations. Again, it was the entirety of all
8 of the donations that went to Mr. DuPont, certainly none went
9 to the candidates or causes and the claim that the candidates
10 were supported through the websites that provided candidate and
11 election information is also false. The websites were
12 rudimentary, they included limited boiler plate information to
13 the extent they included quotes from the candidates, all of
14 those quotes were invented, none of them were true.

15 In terms of his explanation submitted for the first
16 time today about bail jumping, your Honor, I don't think that
17 explanation passes the smell test. The U-Haul was rented to --

18 THE COURT: It was hard to follow and a little bit
19 hard to grasp how that unfolded.

20 MR. ROSSMILLER: Your Honor, I think I would say that
21 it is hard to credit. The U-Haul was rented to be returned in
22 Washington. There is no allegation that Mr. DuPont went there.
23 In fact, the allegation from the government is the opposite,
24 that he entered into a contract to return it in Washington
25 State. He didn't go anywhere near there. When he -- there has

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1 been no submission to the Court of a receipt for a purported
2 round trip flight. There is certainly no suggestion that when
3 he found out that he had missed a flight, supposedly, that he
4 tried to get on another flight. I don't want to belabor that
5 point, I think the Court has a firm grasp of the issues there,
6 and I am not looking for further disputes about it but I note
7 that there are -- there is no particular evidence in the record
8 to back that up.

9 So given the fact that Mr. DuPont has done this or
10 something like this five times, given the fact that it affected
11 thousands of people over the course of years, given the fact
12 that Mr. DuPont appears to have, by all of the evidence,
13 engineered this scheme and given the fact that he has expressed
14 no remorse whatsoever, the government thinks that a guideline
15 sentence is appropriate.

16 THE COURT: So just a couple of procedural matters.

17 First, defense counsel and/or the government --
18 defense counsel, really -- is there anything that is of a
19 factual nature that you would like to put in evidence or prove
20 or have a hearing with respect to -- I don't want to preclude
21 you or prevent you, or is it OK to go forward on the record
22 that is before us?

23 MS. BAHARANYI: We are not seeking to have any sort of
24 factual hearing, your Honor. I do think you have actually
25 heard Mr. DuPont express his remorse and express also that he

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1 should have made it to New York when he didn't, so I take -- I
2 bristle a bit at that statement by the government that there
3 has been no expression of remorse, that he has denied or lied
4 about the bail jumping. He knows he should have returned and
5 he did not and that's why we pled guilty with that guideline
6 enhancement included because he did the conduct.

7 THE COURT: Right. I get it.

8 MS. BAHARANYI: So beyond that, your Honor, I think
9 the record is clear, especially with respect to the physical
10 health issues which are our primary reason for seeking the
11 below guideline sentence that we are asking for.

12 MR. ROSSMILLER: Your Honor, if I may just respond
13 very, very briefly? I have great respect for Ms. Baharanyi and
14 I should clarify. I didn't mean to suggest that Mr. DuPont has
15 not expressed a lack of remorse for the bail jumping -- which I
16 think he has. What we have seen a lack of remorse with respect
17 to is the underlying offense here of stealing hundreds of
18 thousands of dollars from thousands of donors.

19 THE COURT: OK.

20 MS. BAHARANYI: When he expressed his deep remorse,
21 your Honor, that was for this conduct.

22 THE COURT: For the underlying fraud.

23 MS. BAHARANYI: Precisely. Precisely.

24 THE COURT: No, I get it.

25 MS. BAHARANYI: His greed and his pride were his exact

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1 words, your Honor.

2 THE COURT: I get it.

3 Let's see. So I'm going to adopt the findings of fact
4 in the presentence report unless -- I think we went over this
5 before but I will try it one more time.

6 Does defense counsel have any further objections to
7 the presentence report?

8 MS. BAHARANYI: Your Honor, no further objections.

9 THE COURT: And none from Mr. DuPont either?

10 THE DEFENDANT: No.

11 THE COURT: Or Mr. Rossmiller?

12 MR. ROSSMILLER: No, your Honor. Thank you.

13 THE COURT: So at this point in time I would like to
14 just take a five-minute break, or if you need more time 10
15 minutes, while I collect some thoughts in my head. And so, it
16 is now, I have New York time 12:08, we say 12:18, so it will be
17 10 minutes and then I will finish up the sentence.

18 Is that OK with you all?

19 MS. BAHARANYI: That's OK for the defense. Thank you.

20 MR. ROSSMILLER: Yes, your Honor. The government will
21 be here so whenever the Court returns.

22 THE COURT: Fair enough. OK.

23 I am just going to put myself on mute.

24 (recess)

25 THE COURT: So I will first state the sentence that I

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1 intend to impose and then I will impose it.

2 I have been persuaded to give a lesser sentence than I
3 was intending to give, largely, of course, based on issues of
4 health but I am not -- I could not, in good conscience, get to
5 a time-served sentence. I am going to impose a sentence of 42
6 months of incarceration, which is dramatically lower than the
7 low end of the guideline range -- the guideline range is 75 to
8 87 months based on an offense level of 23 and a Criminal
9 History Category of II -- that's going to be followed by
10 supervised release for three years, subject to the following
11 mandatory conditions: that Mr. DuPont not commit another
12 federal, state, or local crime; two, that he not illegally
13 possess a controlled substance; three, that he refrain from any
14 unlawful use of a controlled substance; be required to submit
15 to one drug test within 15 days of placement on supervised
16 release and at least two unscheduled drug tests thereafter. In
17 addition, he is required to comply with the standard conditions
18 1 through 12 which are found on pages 29 through 31 of the
19 presentence investigation report and they include, among other
20 things, that he must not own, possess, or have access to a
21 firearm, etc. The list of 12 is readily available to you and
22 is in the presentence report.

23 And then these following special conditions which the
24 Court finds are reasonably related to the factors set forth in
25 Section 3553(a)(1), (a)(2)(B), (a)(2)(C) and (a)(2)(D) which

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1 the Court also finds involve no greater deprivation of liberty
2 than is reasonably necessary for the purposes set forth in
3 Section 3553(a)(2)(B), (a)(2)(C), (a)(2)(D), and are consistent
4 with policy statements issued by the Sentencing Commission
5 pursuant to 28, U.S.C., Section 944(a). These special
6 conditions include that defendant may only reside, upon release
7 from incarceration, with his son at his son's home, or directly
8 at a nursing home that they have selected. Those are the only
9 two places where he may reside directly from release from
10 incarceration.

11 He will be supervised in his district of residence.
12 He is required to report to probation within 24 hours of
13 release from incarceration from custody. He is required to
14 participate in weekly therapeutic counseling by a licensed
15 therapist. And he is also required -- this is throughout the
16 term of supervised release -- to attend and participate in
17 weekly group therapeutic counseling headed by a licensed
18 therapist as well.

19 The emphasis, just so you know on mental health, is
20 largely in my mind, based upon his life-long criminal conduct
21 and activity and evasion. And I found -- and find very
22 disturbing that however we -- it is the bail jumping or the
23 obstruction of justice, that kind of behavior continuing right
24 up to the very end. So I think there is a need for individual
25 therapy and also for group therapy, each on a weekly basis, for

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1 entire term of supervised release.

2 And, he may be required to contribute to the costs of
3 services rendered as by co-payment in an amount to be
4 determined by the probation officer based on such factors as
5 ability to pay or availability of third-party payment.

6 And, he is also required to provide the probation
7 officer with access to any requested financial information they
8 may seek.

9 And, he must not incur any new credit card charges or
10 open any additional lines of credit without -- are you in the
11 process, Mr. DuPont? I don't want to disturb.

12 MS. BAHARANYI: I'm sorry, your Honor. We are --

13 THE COURT: If you need time to talk, why don't we
14 take a break, but it is very disconcerting to have the
15 defendant not listening to the sentence that's being imposed.

16 MS. BAHARANYI: I think he hears, your Honor. We are
17 engaged. Thank you.

18 THE COURT: I was saying that one of the special
19 conditions is also that he must not incur new credit card
20 charges or open any additional lines of credit without the
21 approval of the probation officer unless he has completed any
22 financial obligations that arise as a result of this sentence.

23 I am not imposing a fine, I don't intend to, none is
24 recommended by the Probation Department.

25 I am intending to impose restitution in the amount of

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1 \$245,000. It is payable to the Clerk of Court, Southern
2 District of New York, at 500 Pearl Street, and this is for the
3 benefit of the victims in Count One, the names of victims and
4 specific amounts owed were provided by the government I think
5 in three spreadsheets and will be forwarded to the clerk's
6 office.

7 During the term of imprisonment if he were to be
8 engaged -- it doesn't seem like this is likely, but he doesn't
9 seem to -- it doesn't seem likely that he would be engaged in
10 any employment. If he were engaged in employment as a BOP
11 non-UNICOR work program he would be required to pay \$25 per
12 quarter for the criminal financial penalties. If he were to
13 participate in the BOP'S UNICOR program as a Grade 1 through 4,
14 he would be required to pay 50 percent of his monthly UNICOR
15 earnings toward the criminal financial penalties. And if any
16 portion of the financial penalties, which includes the \$245,000
17 restitution is unpaid following release from prison, which of
18 course is likely to be the case, then he would be required to
19 pay the balance until paid in installments of 20 percent of any
20 gross monthly revenues.

21 I have considered the factors set forth at 18, United
22 States Code, Section 3663(a)(1)(B)(i) or 18, U.S. Code
23 Section 3664 in imposing this restitution requirement. And, in
24 any event, I believe it is agreed to by the parties.

25 There is a special assessment of \$200 which is

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1 mandatory under 18, United States Code, Section 3013.

2 Briefly, the reasons for this sentence. The offense
3 level is 23, the Criminal History is II, and the guideline
4 range -- hold on, I am looking for not the guideline range but
5 I know that -- I am looking for a fact sheet that I had.
6 Anyway, the guideline range, as we said, is 75 to 87 months
7 based on Criminal History Category II, offense level 23. This
8 sentence is, as you can see, is very much lower than the low
9 end of the guideline range, 42 months, compared to the low end
10 of the guideline range which is 75 months. That is a very
11 substantial variance and it is done almost entirely based on
12 Mr. DuPont's physical ailments, his health, and his age.

13 I believe this sentence is appropriate given the
14 seriousness of the offense and the needs for punishment and
15 deterrence. I have considered the nature and the circumstances
16 of the crime and including the enhancement and the history and
17 characteristics of Mr. DuPont which is, it seems, nearly
18 life-long criminal behavior. It is something that I have
19 rarely encountered in all my years as a Judge and it's a little
20 stunning to me that in fact someone would continue criminal
21 behavior right up until the later portions of life. It is a
22 surprise to me and it causes me great sorrow to encounter with
23 somebody of that nature.

24 I have also considered the seriousness, as I say, of
25 the crime. I think it is important to promote respect for the

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1 law, to provide a just punishment, to afford adequate
2 deterrence to any further criminal conduct -- although I am not
3 sure I am capable of doing that in this instance -- to protect
4 the public certainly from further crimes of Mr. DuPont. That
5 is the key to this sentence -- one of them -- and to provide
6 Mr. DuPont with needed -- particularly medical care which he
7 has been receiving up until now, and other correctional
8 treatment in the most effective manner.

9 So, I am happy to hear from defense counsel and
10 Mr. DuPont and Mr. Rossmiller again before I impose the
11 sentence.

12 MS. BAHARANYI: Your Honor, if may have one moment?

13 THE COURT: Sure.

14 (Defendant and counsel conferring)

15 THE DEPUTY CLERK: Judge Berman? This is Christine.

16 THE COURT: Yes.

17 THE DEPUTY CLERK: While defense counsel is
18 conferring, when defense counsel returns, could you please
19 clarify for the record if the sentence that you intend to
20 impose contains 18 months on the one count followed by 24
21 months consecutive for the aggregated identity theft count?

22 THE COURT: Yes.

23 THE DEPUTY CLERK: Thank you, Judge.

24 (Defendant and counsel conferring)

25 MS. BAHARANYI: Your Honor, I wanted to clarify one

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1 point stated by the Court. In terms of his reporting upon his
2 release, typically it is 72 hours but I was not sure if that's
3 what the Court stated.

4 THE COURT: No. 24 is what I --

5 MS. BAHARANYI: 24.

6 THE COURT: Yes.

7 MS. BAHARANYI: And that is to the probation office
8 upon his release.

9 THE COURT: It says also, and I hope you all heard,
10 that when he leaves incarceration, he will be living at only
11 one of two places immediately; first is, or in either order,
12 his son's house or in a nursing home in California.

13 MS. BAHARANYI: That part we did receive, your Honor.
14 We were just clarifying the timing. Nothing further from the
15 defense.

16 THE COURT: OK. So, Ms. Murray pointed out that I
17 neglected to assign terms of incarceration to each count. It
18 is 24 on the underlying fraud and 24 months on the underlying
19 fraud and 18 on the enhancement.

20 MR. ROSSMILLER: Your Honor, this is Alex Rossmiller.
21 I think you mean the reverse, 18 months on the
22 underlying fraud and 24 on the mandatory fraud; is that right?

23 THE COURT: Yes.

24 MR. ROSSMILLER: Thank you, your Honor.

25 THE COURT: Yes.

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1 So 18, right, on the underlying fraud, and 24 on the
2 enhancement.

3 THE DEPUTY CLERK: Judge, that's on the aggravated
4 identity theft count, correct?

5 THE COURT: Yes.

6 THE DEPUTY CLERK: Thank you.

7 So, did you want to add anything else, defense
8 counsel?

9 MS. BAHARANYI: Nothing further, your Honor.

10 THE COURT: Mr. DuPont, anything further? I couldn't
11 hear.

12 THE DEFENDANT: No. Thank you, your Honor.

13 THE COURT: Mr. Rossmiller, anything from you?

14 MR. ROSSMILLER: Your Honor, just a couple quick
15 things.

16 I heard the Court describe that it intended to enter
17 the restitution order, it imposed a special assessment. I
18 apologize if I missed it while I was taking notes. Did the
19 Court describe an intend to enter, as a final order of
20 forfeiture, the previous consent order of forfeiture that was
21 submitted?

22 THE COURT: Yes. I don't have it in front of me, I
23 don't believe.

24 MR. ROSSMILLER: That's fine, your Honor. It was
25 filed on the docket, I don't think it needs to be done right

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1 now but I think there will be no objection from the defense to
2 the Court entering that as a final order.

3 THE COURT: And the amount contained in the forfeiture
4 order was what?

5 MR. ROSSMILLER: Just a moment, your Honor. Your
6 Honor, the PSR -- I'm sorry.

7 THE COURT: Go ahead, I am still looking for a fact
8 sheet that I had. Go ahead.

9 MR. ROSSMILLER: I'm sorry, your Honor. I am looking,
10 I have it right here.

11 THE COURT: I think --

12 MR. ROSSMILLER: It is \$245,000; yes, your Honor.
13 Thank you.

14 THE COURT: Just one second.

15 (pause)

16 MR. ROSSMILLER: I should say, your Honor, just for
17 the reference, that preliminary order of forfeiture was
18 previously filed at Docket no. 53.

19 THE COURT: In the amount of, again?

20 MR. ROSSMILLER: \$245,000.

21 Your Honor, I think after the Court imposes its
22 sentence, as the very final government submission today we will
23 ask the Court to dismiss underlying count but I will wait for
24 the moment to do that.

25 THE COURT: Hold on one sec. Thanks. (Pause) I will

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1 now pronounce sentence.

2 The guideline range is 51 to 63 months on Count One,
3 and followed by 24 months' consecutive on Count Two, which is
4 the identity theft, and so I am imposing a sentence of 42
5 months which would be 18 months to Count One and 24 months to
6 Count Two, totaling 42 months together. That is to be followed
7 by three years of supervised release, subject to the mandatory,
8 special, and standard conditions that I mentioned before and
9 incorporate that conversation and discussion here by reference.
10 There is no fine. Restitution has been stated how it is to be
11 paid and forfeiture, as well, in the amount of \$245,000 each,
12 forfeiture -- that's the forfeiture amount, and the restitution
13 amount, and the manner in which those are to be paid, same as
14 the discussion that we have had earlier and I incorporate that
15 discussion by reference as well; a \$200 special assessment,
16 \$100 for each count.

17 The reasons for this sentence are as I have stated
18 earlier and I incorporate that discussion here entirely by
19 reference.

20 As I said before, I find the case for a sentence
21 within the guideline range to be compelling in many respects
22 but I am persuaded that because of Mr. DuPont's age and medical
23 conditions to make this substantial variance to 42 months which
24 is way below the low end of the guideline range.

25 Does either counsel know of any legal reason why this

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1 sentence should not be imposed as so stated? Starting with the
2 defense.

3 MS. BAHARANYI: No, your Honor.

4 THE COURT: Mr. Rossmiller?

5 MR. ROSSMILLER: No, your Honor.

6 THE COURT: Then I hereby order the sentence to be
7 imposed, as so stated.

8 Mr. DuPont, to the extent that you have not already
9 waived your appeal rights -- and now I am talking about the
10 plea agreement dated June 17, 2021, in which there are
11 included -- can we move Mr. DuPont back into the picture --
12 there are included waivers of appeal on your part and in fact
13 in that plea agreement you agree that you will not file a
14 direct appeal, nor will you bring a collateral challenge
15 including but not limited to an application under Title 28,
16 United States Code, Sections 2255 and/or 2241 of any sentence
17 that is within or below the guideline range of 75 to 87 months.
18 This sentence that I have imposed is substantially lower than
19 that range so your waivers of appeal do apply certainly in this
20 case.

21 You also agreed in the plea agreement not to appeal
22 any restitution amount that is equal to or less than \$245,000
23 and the restitution that I have imposed in this case is
24 \$245,000, so that waiver of appeal also applies.

25 And, you also agreed in the plea agreement that you

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1 would not appeal the forfeiture amount if it were \$245,000 or
2 less. This forfeiture amount in your case is \$245,000, and so
3 that waiver of appeal also applies.

4 But to the extent that there is some other right out
5 there that I am not aware of, I notify you of your right to
6 appeal, such a right, and if you are unable to pay the costs of
7 an appeal, you would have the right to apply for leave to
8 appeal in forma pauperis. And if you request, the Clerk of
9 Court would prepare and file a notice of appeal on your behalf
10 immediately.

11 Do you, Mr. DuPont, understand your waivers of appeal?
12 I can't hear you.

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: OK.

15 So I think then that concludes our work for today.

16 Mr. Rossmiller, you indicated there might be open
17 counts. I forget if we resolved them at that point but if you
18 want to make that application right now again, I will make the
19 record clear.

20 MR. ROSSMILLER: Yes. Thank you, your Honor. The
21 government does move to dismiss any underlying counts in this
22 case including the single count included in indictment no. 19
23 CR 791 which has been consolidated with this case.

24 THE COURT: I will grant that application.

25 And then, starting with the government, did you wish

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1 to add anything to today's sentencing proceeding?

2 MR. ROSSMILLER: No, your Honor. Thank you.

3 THE COURT: How about defense counsel?

4 MS. BAHARANYI: No, your Honor. Thank you.

5 THE COURT: OK. I think that concludes our work for
6 today.

7 Mr. DuPont, I wish you the very best of luck going
8 forward.

9 Thanks very much, folks. We are adjourned.

10 o0o